



Actuaries  
Institute.

8 May 2025

Financial Advice and Investment Regulation Unit  
Treasury  
Langton Cres  
Parkes ACT 2600

Email: [FinancialAdvice@treasury.gov.au](mailto:FinancialAdvice@treasury.gov.au)

Dear Sir/Madam,

## Consultation: Improving access to affordable and quality financial advice

The Actuaries Institute (**Institute**) welcomes the opportunity to provide feedback on the range of measures entitled '**Improving access to affordable and quality financial advice**' announced on 21 March 2025 as the Government progresses the next tranche of the Delivering Better Financial Outcomes (**DBFO**) reforms. The measures include the exposure draft of the legislation (**ED**) and the ED Explanatory Materials. We collectively refer to these as **DBFO Tranche 2A** in this submission.

The Institute is the peak professional body for actuaries in Australia. Our members work in a wide range of fields, including insurance, superannuation and retirement incomes, banking, enterprise risk management, data science and AI, climate change impacts and government services. The Institute has a longstanding commitment to contribute to public policy discussions where our members have relevant expertise.

The comments made in this submission are guided by the Institute's [Public Policy Principles](#) that any policy measures or changes should promote public wellbeing, consider potential impacts on equity, be evidenced-based and support effectively regulated systems.

### Overview Comments

The Institute fully supports Government's steps to address the financial advice gap in Australia, where many consumers cannot access or afford full personal advice (**Advice**). There is an imperative for more Australians to have access to and receive Help, Guidance and Advice (**HGA**) that is fit for their needs and contributes to enhanced financial wellbeing. In 30 years of ongoing financial services regulatory reforms, we believe that the DBFO reforms, well designed and enacted, have the potential to be as impactful as the 2002 Financial Services Reforms and the 2012-13 Future of Financial Advice Reforms.

Over the past year, the Institute has been researching potential ways to address this issue and, following completion of stakeholder consultation currently underway, intends to publish a research paper entitled 'Financial Advice Reform and Help Guidance and Advice' in the coming months. We would be pleased to share and discuss this paper with Treasury once finalised. The views expressed in this submission are based on this research.

Overall, and subject to a few qualifications outlined in the Attachment, we believe that DBFO Tranche 2A represents positive developments which should increase access to and affordability of financial advice and guidance.

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In considering increased accessibility and affordability of HGA, and our submission on DBFO Tranche 2A, our observations are shaped by the following beliefs:

1. **The DBFO reforms are critical to increased access to HGA at an affordable price.** In addition to the role of financial advisers, superannuation funds have a critical role to play, as do digital solutions (either on their own or, more likely, on a hybrid basis) in increasing accessibility and affordability – especially for 'Middle Australia'.
2. **There is a need for a broader HGA Framework:** Many consumers, including superannuation fund members, do not want or need full ongoing comprehensive Advice and its associated price tag. Instead, they do require a broad range of support ranging from Help to Guidance to Advice (from simple to complex) – each of which has a distinct role to play. The regulation of Advice is currently a relatively blunt instrument. It does not give appropriate recognition to differences in consumer risk outcomes between different levels of complexity of advice and guidance.
3. **Guidance has a significant role to play:** Guidance operates in a grey area between Help and Advice. Targeted superannuation prompts as defined in DBFO Tranche 2A represent one form of guidance. The importance of Guidance is recognised in the Government's Retirement Income Review. Whilst defining the distinction between Advice and Guidance requires careful navigation, the [UK Financial Conduct Authority Advice Boundary Review](#) is a useful reference and provides a potential pathway for Australia.

### Our Submission

The attachment to this letter represents our submission on the three key sections in the proposed legislation, namely:

1. Schedule 1 – Advice Through Superannuation
2. Schedule 2 – Targeted Superannuation Prompts
3. Schedule 3 – Client Advice Records

Our comments focus on those components where our members have specific expertise, with a particular focus on the ED Explanatory Materials.

If you would like to discuss any aspect of this submission, please contact the Institute via (02) 9239 6100 or [public\\_policy@actuaries.asn.au](mailto:public_policy@actuaries.asn.au).

Yours sincerely

(Signed) Elayne Grace

CEO

## Attachment

### 1. Schedule 1 – Advice Through Superannuation

#### High-Level Observations

The Actuaries Institute is broadly supportive of measures included in Schedule 1. Changes to the SIS Act to provide clarity to superannuation fund trustees regarding when, how, and what advice they can provide will further the objective of increasing access to cost-effective financial advice for all Australians.

The proposed changes establish a clearer framework for trustees to provide advice related to members' beneficial interests in their fund. This clarity is essential for ensuring that superannuation funds can effectively play their role in addressing the financial advice gap in Australia.

#### Specific Comments

We highlight below three areas where additional consideration could be given to assist trustees implement legislative change effectively and to enhance member appreciation of the scope and limitations of collectively charged advice.

##### 1. Trustee certainty

The circumstances under which advice relates to a financial product that is a beneficial interest in the fund for which trustees can collectively charge is to be prescribed in the regulations. This will provide certainty for trustees where superannuation funds collectively charge for specified forms of advice, subject to the collective charging being fair and reasonable.

Paragraph 1.25<sup>1</sup> identifies the circumstances prescribed by the regulations, and states this is not considered to be an exhaustive list as to when advice will or will not be taken to relate to a beneficial interest in the superannuation fund. Rather, it is intended to provide trustees with guidance around the scope of what is a beneficial interest in the superannuation fund for the purposes of collective charging. We are concerned that despite the intent of the legislation to provide flexibility for trustees to identify additional circumstances where advice would meet the requirements for collective charging, even if not prescribed by the regulations, this may continue the so-called 'Trustee Dilemma' where trustees are caught between the desire to provide advice to members and the need to comply with and navigate the legislative requirements, especially advice obligations. That is, until the regulations are made and interpretation settles over time through evolving industry practice, there remains uncertainty about whether an advice circumstance not specifically prescribed will meet the requirements, which may lead to trustees deciding not to offer advice outside the prescribed circumstances.

As trustees identify common circumstances that potentially meet the requirements for collective charging beyond those that are set out in the regulations, we envisage need for a process for regulatory relief applications and, if granted, effected through regulatory instrument(s). We note the [general process available](#) where ASIC can consider applications for relief from laws under its administration. However, we propose that consideration be given to whether these reforms should facilitate a more bespoke process that is both wider, so as to involve the relevant regulators (ASIC, APRA and the ATO), and streamlined, to account for the particular and potentially common nature of such applications for relief. This could provide an effective process that deals with uncertainty for trustees whilst providing transparency and clarity for regulators, industry and superannuation fund members regarding understanding the advice circumstances that meet the beneficial interest requirements that trustees can collectively charge for under the law.

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<sup>1</sup> All paragraph references are to the ED Explanatory Materials unless explicitly stated otherwise

## 2. Advice through superannuation limitations

Consideration should be given to prominently publishing a comprehensive list of circumstances where trustees can collectively charge for advice related to beneficial interests in the fund. We believe it will be critical that members can, in a clear and simple way, understand the scope, purpose and limitations of advice that will be collectively charged by their superannuation fund. We suggest that funds or regulators be required to publish prominently on their website information on the advice a member can access from the fund, including what circumstances the advice can cover and how members pay for it. Which party the requirements should apply to will depend on whether the measures envisage a set of allowable circumstances common across superannuation or common across the particular superannuation fund. The information should also explain what it means for the collectively charged advice to only be related to their beneficial interest in the fund, what alternatives are available to the member to obtain holistic advice, and when/why that might be important to consider.

We feel it is particularly important that members understand that while collectively charged advice can consider their personal circumstances, including income and assets outside the superannuation fund, the advice is constrained to financial products offered by the superannuation fund. In particular, it is made clear that the advice cannot consider strategies regarding assets outside of superannuation or financial products offered by other superannuation funds but which could potentially provide superior options for a member.

The members should be appropriately informed of the limitations of the advice based on their circumstances and informed of the options for holistic advice, noting that those members who take holistic advice often end up with better outcomes.

For example, if providing advice on retirement income where the fund has an account-based pension product but no lifetime income product, it should be made clear to the member that there is a class of financial products, lifetime income products, which can be used for retirement income and which the advice has not considered as it is not offered by the fund. As such the advice cannot identify if strategies incorporating that type of product would better achieve the member's objectives.

As a further example, consider where a member is found to have a mortgage at retirement when seeking advice about drawing a retirement income. Based on our reading of Paragraph 1.26, a fund could advise a member on the suitability of an account-based pension product offered by the fund and the drawdowns they might be able to afford over their lifetime from that product combined with their other assets. However, the fund cannot provide advice regarding the member's property, such as whether to pay off the mortgage at retirement using superannuation or other assets or whether to consider downsizing to release capital and pay off debt to maximise future retirement income and so on.

In these circumstances, the fund may better support members if it could inform them that it has identified they have a material debt at retirement, and a potential limitation of the advice provided is that no consideration has been given to dealing with that debt. It could then include information about the benefits of obtaining holistic advice. This may be a potential use of targeted superannuation prompts within the advice process.

## 3. Superannuation account consolidation

Having multiple superannuation accounts can mean paying multiple fees and charges, reducing future retirement savings. For individuals with multiple accounts, it is usually valuable advice to consolidate accounts and have only one<sup>2</sup>. Paragraph 1.30 states that advice as to whether a

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<sup>2</sup> We note there are important exceptions to account consolidation, including but not limited to, the desire to access particular kinds of insurance and/or investment option(s) across multiple funds.

member should consolidate their superannuation holdings in two or more superannuation entities into one account would continue to be prohibited.

We agree that the prohibition on a superannuation fund to advise a member to consolidate their accounts into the fund is reasonable given the conflict created by advising this fund should be the beneficiary of consolidation. However, we consider it would be in a member's best financial interests, where it was identified that they have multiple superannuation accounts, for the fund to be able to flag to the member the potential issue of having multiple accounts but stop short of recommending consolidation into its fund.

## 2. Schedule 2 – Targeted Superannuation Prompts

### High-Level Observations

The broad intent described in 'Context of Amendments' in the ED Explanatory Materials is based on a sound objective – namely, addressing the imperative for more Australians to have access to and receive HGA that is fit for their needs, and contributes to enhanced financial wellbeing. Targeted superannuation prompts are a form of Guidance, and Guidance has a critical role to play in 'closing the gap' on appropriate financial services support.

Overall, the Institute supports most of the proposed measures in Schedule 2. However, we do have one significant qualifier/exception to this overall support, which is outlined below (Specific Comment 3).

Paragraph 1.12 on 'Context of Amendments' articulates well the legislative and regulatory constraints applying to targeted superannuation prompts, especially *"The law in relation to the provision of personal advice and general advice is not well suited to enabling superannuation funds to provide advice of a general nature through targeted prompts to groups of members. This uncertainty arises because even where the advice provided is general in nature, a reasonable person may assume that their fund has considered their objectives, financial situation and needs in providing the advice."* and *"Additionally, information that currently satisfies the requirements of the general advice provisions may not drive the uplift in member engagement..."*

The Institute agrees strongly with these observations. We submit that Guidance has a particularly important role to play in increased accessibility and affordability of HGA. However, 'Guidance' generally operates in a grey area between Help and Advice. Targeted superannuation prompts are one form of guidance. The importance of Guidance is recognised in the 2020 Retirement Income Review.

Whilst defining the distinction between Advice and Guidance requires careful navigation, the [UK Financial Conduct Authority Advice Boundary Review](#) is a useful reference and provides a potential pathway forward. This review has been conducted over the last couple of years and reflects deep thinking and consultation. In summary, it states that: *"In the context of financial services, "advice" is a service that recommends a specific course of action based on consumers' individual circumstances and goals; "guidance", on the other hand, provides information and/or options to narrow down consumers' choices, without making an explicit recommendation."*

This definition of guidance broadly reflects generally accepted principles that guidance is a process for providing financial services consumers with relevant issues to consider, awareness of options and choices, and a process for narrowing down these choices. Importantly, however, it stops short of providing recommendations or statements of opinion.

Quoting from Paragraph 1.36, *"Schedule 2 to the Bill inserts a new subsection into the Corporations Act to stipulate that a recommendation or statement of opinion in a targeted superannuation prompt is not personal advice."* We submit that this choice of wording is concerning and needs clarification.

We submit that, with some exceptions (approaching/turning age 65 or 67 and/or whether the member has defined benefit superannuation – see detail below), targeted superannuation prompts (a form of guidance) should never be expressed so strongly as to represent a recommendation or statement of opinion because, just as with general advice (which is the proposed legal status of targeted

superannuation prompts), it does not consider the recipient's personal circumstances. We elaborate on this issue below.

## Specific Comments

1. Paragraph 1.38 (Personal Advice Carve Out) states, *"These amendments clarify that a recommendation or statement of opinion that is contained in a targeted superannuation prompt that meets all the legislative requirements, is not classified as personal advice. Such advice is therefore subject to the requirements in relation to the provision of general advice, and will satisfy the requirements relating to general advice if the relevant requirements under the new Division are complied with."* This reinforces the need to exercise significant care in how 'strong' the prompt or guidance is because no matter how well-defined the form of targeting is, only limited consideration is given to the recipient's personal circumstances.
2. Paragraph 1.42 states, *"Targeted superannuation prompts can only contain financial product advice that is superannuation-related advice"* and Paragraph 1.44 states *"Superannuation-related advice must therefore be strategic advice about the types of superannuation products that are suited to the class of members, rather than specific individual product offerings by the superannuation fund."* These statements seem entirely reasonable.
3. Paragraph 1.46 (Settings in Relation to Existing Interests) gives examples of targeted superannuation prompts – it says, *"The recommendation or statement of opinion may be about the characteristics or options in relation to that particular product that:*
  - *relate to making contributions to those existing interests;*
  - *relate to the level or levels of cover under life risk insurance products issued to the trustee or trustees for the benefit of members of the superannuation fund;*
  - *relate to the rates of payment for superannuation income streams from those existing interests;*
  - *relate to changing investment options offered within a class of interests, for example changing between balanced and high-growth investment options ..."*

Prompts are a form of guidance and should be framed as such. Some of the above examples are potentially inappropriate if the prompt, while well targeted and nonetheless generalised in nature, is as strong as a recommendation or a statement of opinion. For example:

- suggesting a pension drawdown rate above mandated minimums, noting that one normally needs to know other relevant factors (relationship status, home ownership status, assets outside superannuation, etc.) to provide reasonable advice or guidance – and a superannuation trustee is unlikely to have all the relevant information to help the member make an informed decision; and
- changing investment option profile (where one needs to know a member's circumstances, including risk appetite) – though some generalised principles are probably reasonable for 'younger' members (say, aged 45 or less) as they are all generally long-term investors unable to take out benefits in the short-term.

Key exceptions to these comments include:

- when a superannuation member attains the age of 65 and hence meets one of the SIS Act Conditions of Release, in which case a prompt that the member considers shifting their superannuation from an accumulation product to a pension product (up to the Transfer Balance Cap) because it is likely to be in their interests;
- when members are nearing age 67, informing them that they could soon be eligible for the Age Pension or Commonwealth Seniors Health Card and should look into applying; and/or
- when a superannuation member has part or all of their superannuation as a defined benefit and nears the age (from Age 60) from which they have the option to cash out their benefit into a lump sum and/or to convert this into a defined benefit pension.



These are examples where a strong prompt (recommendation or statements of opinion) would appear warranted.

The proposed strength of targeted superannuation prompts (recommendations or statements of opinion) is not just an issue for the ED Explanatory Materials. It is also reflected in the draft legislation where it is proposed to insert after subsection 766B(3A) of the Corps Act:

*"(3B) Despite subsection (3), a recommendation or statement of opinion contained in a targeted superannuation prompt is not **personal advice**."*

Some elaboration on the first of the above examples (regarding drawdowns above mandated levels) is provided in Paragraph 1.47, but the wording of the draft legislation does not provide the same insight, and the draft legislation clearly has greater legislative and regulatory authority than the ED Explanatory Materials.

4. (Benefits of Obtaining Personal Advice and other advice) Paragraph 1.48 recognises partially and weakly (use of the word 'may') the above issues by proposing:

*"As prompts are unlikely to account for the unique circumstances for every individual member of a class, trustees may also include recommendations or statements of opinion that are about the benefits to a class of members to whom the targeted superannuation prompt will be sent (the recipient class) in obtaining personal advice."*

We submit that this is too weak and that, with the exception of the specific examples mentioned above (turning/approaching the ages of 65 and 67 and/or whether the member has defined benefit superannuation), trustees be required to include a recommendation or statement of opinion to the member that they consider obtaining personal advice.

5. Much of the remaining paragraphs of this section on ensuring the advice is appropriately targeted (Paragraphs 1.55 to 1.92) relate to procedural issues, especially relating to trustee obligations, including:

- appropriate targeting,
- assessment frameworks,
- selecting classes of members,
- ensuring advice is appropriate,
- ensuring advice continues to be appropriately targeted,
- statements and warnings,
- modes of communication, monitoring requirements,
- opt-out requirements,
- ASIC Declarations, and
- Record-Keeping Obligations.

These appear, in the main, to be reasonable.

We strongly support and give additional emphasis to the 'Statements and Warnings', and especially the mandatory warning in the second bullet point of Paragraph 1.76 that:

*"a warning that the advice in the prompt is based on the broad characteristics of the target class, and does not take into account members' individual objectives, financial situation and needs."*

### 3. Client Advice Records – including Schedule 3

#### High-Level Observations

The broad intent discussed in 'Client Advice Records' (Paragraphs 1.18 to 1.19) is clearly articulated, namely, to ensure that clients are provided with sufficient information to enable them to "*make an informed decision about the advice*" and for the advice to be "*provided in a clear, concise and fit for purpose advice record*".

The Institute fully supports this intent and believes the shift from Statement of Advice (**SOA**) to Client Advice Record (**CAR**) represents a positive step toward making financial advice more accessible and understandable for consumers.

#### Specific Comments

1. The ED Explanatory Memorandum explains that the CAR is intended to address the needs of the client, in particular to make an informed decision about the advice provided, and is not intended to include the "proof of compliance", which currently significantly encumbers the quality of the SOA Advice.
2. This is reaffirmed in Paragraph 1.17, which discusses the ability to provide additional information in the CAR, but that information "*...must be expressed and presented in a manner that is fit for the purpose of assisting the client to make an informed decision on whether to act on the advice.*" We believe the CAR approach will lead to more focused, understandable documents for clients, enhancing their ability to make informed decisions about the advice they receive. This aligns with our core belief that financial services support should be fit for consumers' needs and contribute to enhanced financial wellbeing. That is, the CAR will improve the quality and clarity of the client experience.
3. Under the current SOA regime, licence providers use the SOA to assist with their (internally focused) confirmation that legislative and licence requirements have been met when providing advice. These new requirements will place the onus on licence providers to determine alternative mechanisms to achieve this, and this is likely to require a transfer of compliance-based information from the SOA document to the client file notes. The Institute recommends that regulators provide clear guidance to financial advisers about expectations for maintaining adequate compliance records separate from the CAR. This will help ensure the transition from SOAs to CARs achieves the intended outcome of clearer client-focused documents without diminishing regulatory compliance obligations.